

1  
2  
3  
4  
5  
6  
7  
8  
9 IN THE UNITED STATES DISTRICT COURT  
10 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 AMOS JUNIOR SCOTT,

12 Petitioner,

No. CIV S-08-0238 GEB GGH P

13 vs.

14 ATTORNEY GENERAL, et al.,

15 Respondents.

ORDER

16 \_\_\_\_\_/  
17 On January 31, 2008, petitioner filed a petition for writ of habeas corpus pursuant  
18 to 28 U.S.C. § 2254. On April 2, 2008, the court ordered respondent to file a response. On April  
19 25, 2008, respondent filed a response stating that this action is properly construed as a motion to  
20 vacate, set aside or correct a federal sentence pursuant to 28 U.S.C. § 2255. After reviewing the  
21 record, the court finds that respondent is correct.

22 Petitioner alleges that an expired California conviction was improperly used to  
23 enhance his federal sentence. Attached to the petition as an exhibit is a presentence investigation  
24 report from the United States District Court for the Western District of North Carolina. This  
25 report includes petitioner's at-issue state court conviction. Because petitioner is challenging the  
26 validity of his federal sentence, the court construes this action as having been brought pursuant to

1 28 U.S.C. § 2255.

2 A motion pursuant to § 2255 is generally properly brought in the sentencing court.  
3 Stephens v. Herrera, 464 F.3d 895, 897 (9th Cir. 2006). The court finds that the United States  
4 District Court for the Western District of North Carolina has jurisdiction over this matter.  
5 Therefore, in the interest of justice, this action will be transferred under 28 U.S.C. § 1631, to the  
6 proper district.

7 Accordingly, IT IS HEREBY ORDERED that this matter is transferred to the  
8 United States District Court for the Western District of North Carolina.

9 DATED: 07/23/08

/s/ Gregory G. Hollows

10 UNITED STATES MAGISTRATE JUDGE  
11  
12  
13 \_\_\_\_\_  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26